

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:24-CV-708-FL

BRITTANY MARIE TOMLINSON,

Plaintiff,

v.

STATE OF NORTH CAROLINA and
MICHELLE C. BALL Clerk of Superior
Court,

Defendants.

ORDER

This matter is before the court for review of plaintiff's pro se complaint (DE 1) pursuant to 28 U.S.C. § 1915(e), and upon plaintiff's motions for FOIA information, for discovery, to state a claim, and for default judgment (DE 5, 6, 7, 10). United States Magistrate Judge Robert B. Jones, Jr., entered memorandum and recommendation ("M&R"), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein it is recommended plaintiff's complaint be dismissed (DE 9). Plaintiff did not file objections to the M&R. In this posture, the issues raised are ripe for ruling.

The district court reviews de novo those portions of a magistrate judge's M&R to which specific objections are filed. 28 U.S.C. § 636(b). The court does not perform a de novo review where a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Absent a specific and timely filed objection, the court reviews only for "clear error," and need not give any explanation for adopting the M&R. See Diamond v.

Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Under 28 U.S.C. § 1915(e)(2), the court may dismiss an action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. Here, the magistrate judge recommends dismissal due to sovereign immunity and judicial immunity. Upon careful review of the M&R and plaintiff’s complaint, the court finds the magistrate judge’s analysis to be thorough and correct. The court thus hereby ADOPTS the recommendation of the magistrate judge as its own. Plaintiff’s complaint must be dismissed under 28 U.S.C. § 1915(e)(2) due to sovereign immunity and judicial immunity. Further, because plaintiff’s claims do not survive review under 28 U.S.C. § 1915(e)(2), her motions for FOIA information, for discovery, to state a claim, and for default judgment (DE 5, 6, 7, 10), necessarily must be denied.

CONCLUSION

Based on the foregoing, the court ADOPTS the M&R (DE 6), DENIES plaintiff’s motions (DE 5, 6, 7, 10), and DISMISSES this action pursuant to 28 U.S.C. § 1915(e)(2). The clerk is DIRECTED to close this case.

SO ORDERED, this the 14th day of March, 2025.



LOUISE W. FLANAGAN
United States District Judge